

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Panchayats – Appeal Petition filed by Smt. Chelluboyina Nagamani Sarpanch (Removed), Tirupatipuram Gram Panchayat, Athili Mandal, West Godavari District – Against the proceedings of the District Collector (PW), West Godavari District – Appeal Petition - dismissed – Orders – Issued.

PANCHAYAT RAJ AND RURAL DEVELOPMENT (PTS.II) DEPARTMENT

G.O. Rt. No. 1338

Date: 20- 08-2011.

Read the following:

1. From the Dist. Collector, W.G. Dist., Procds. No.5211/10-A2(Pts), Dated 06-05-2010.
2. Appeal Petition received Smt. Chelluboyina Nagamani Sarpanch (Removed), Tirupatipuram Gram Panchayat, Athili Mandal, West Godavari District, dt. 17-05-2010.
3. Govt.Memo.No.11402/Pts.II/A1/2010-1, Dt.25.5.2010.
4. From the Asst. Registrar, APHC, Hyd., WPNo.12050 of 2010, dt.27.5.2010.
5. From the Asst. Registrar, APHC, Hyd., WPNo.12050 of 2010, dt.16.11.2010.
6. From the Dist. Collector, W.G. Dist. Roc.No.5211/09/A2(Pts), dt. 11-06-10.
7. Contempt Notice received from the Advocate dated 11.2.2011.
8. Govt.Memo.No.11402/Pts.II/A1/2010-6, Dt.18.4.2011.
9. From the Dist. Collector, W.G. Dist., Procds. No.5211/09-A2(Pts), Dt. 24.06.11.

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ORDER:

In the reference 1st read above, the District Collector (PW), West Godavari District has removed Smt. Chelluboyina Nagamani from the post of Sarpanch, Tirupatipuram Gram Panchayat, Athili Mandal, West Godavari District, U/s 249(1) of Andhra Pradesh Panchayat Raj Act, 1994 for misuse of powers and misappropriation of funds.

2. Aggrieved by the said orders, in the reference 2nd read above Smt. Chelluboyina Nagamani Sarpanch (Removed), Tirupatipuram Gram Panchayat, Athili Mandal, West Godavari District has filed an Appeal Petition before the Government with a request to suspend the proceedings of the District Collector(PW), dated 06-05-2010.

3. In the reference 3rd read above, the Government while deferring the stay petition filed by the removed Sarpanch against the Proceedings of District Collector (PW), West Godavari has requested the Dist. Collector to furnish his report for taking further action.

4. In the reference 4th read above, the Hon'ble High Court while granting interim suspension against the proceedings of the District Collector (PW), West Godavari issued vide 1st read above as issued notice to concerned.

5. In the reference 5th read above, the Hon'ble High Court while disposing the WP as directed the Government to dispose the appeal filed by the petitioner within a period of two (2) months from the date of receipt of the order.

6. In the reference 6th read above, the Dist. Collector (PW), W.G. Dist. has reported that on the report received from the Project Director, DWMA, West Godavari, Eluru, it has stated that an amount of Rs. 2,78,873/- was misappropriated by the Sarpanch in

execution of NREGS works. Restrictions were issued on the drawl of funds by the sarpanch, Thirupathipuram Gram Panchayat. A show cause notice was issued to the sarpanch of Thirupathipuram calling for her explanation within 15 days on the five (5) charges as to why she should not be removed from the office of sarpanch under section 249(1) of Andhra Pradesh Pachayat Raj Act, 1994 for the irregularities committed by her. The Project Director, DWMA, West Godavari, Eluru has been authorized to take criminal action against the responsible persons for recovery of misappropriated amount. The Sarpanch of Tirupathipuram has submitted her explanation on 24.11.2009. The Explanation was examined with reference to record and removed Smt. Chelluboyina Nagamani, from the post of the Sarpanch under section 249(1) of APPR Act 1994 as it is proved that she has committed the irregularities in the administration of the Tirupatipuram Gram Panchayat and misappropriated Rs. 2,78,373/- in execution of works vide Procs. No. 5211/09 A2(Pts), dt. 6. 5.2010. The cheque drawing powers were given to the Divisional Panchayat Officer, Tirupatipuram vide Procs. NO.5211/2009A2(Pts), dated. 12.5.2010.

7. The case was heard on 21-03-2011. The District Panchayat Officer, West Godavari and the Sarpanch have attended the hearing. The District Panchayat Officer has explained the reasons for removal of the Sarpanch. The counsel for Sarpanch has stated that she has recommended for issue of Job cards to the unemployed and not involved in misappropriation of the funds of Gram Panchayat. After hearing them, it is observed that the NREGS funds has been misappropriated and not the Gram Panchayat funds. Hence a report has been called that whether she has misappropriated NREGS funds in the capacity of Sarpanch or on individual capacity and also whether action can be taken against the Sarpanch for misappropriation of NREGS funds under APPR Act to Government at an early date by granting stay against the proceedings of the District Collector (PW) issued vide reference 1st read above vide reference 8th read above.

8. In the reference 9th read above the District Collector (PW), W.G District has reported that it is clearly noticed that though the Sarpanch is not directly responsible for distribution of wages to the workers, she has signed in the village organization committee minutes book as Sarpanch while receiving the amount and hence she is responsible for the amounts received from the Village Organization committee on 2.5.2008, 13.6.2008, 1.7.2008, 24.7.2008, 29.8.2008, 21.8.2008, 22.8.2009.27.8.2008 and signed in that minutes book. Hence, she has misappropriated the NREGS funds in the capacity of Sarpanch only.

9. The case was again heard on 22-07-2011. The learned counsel for the petitioner argued that no show cause notice was given before removal and the Collector has not enquired personally to satisfy herself about the allegations levelled against her and issued based on the lower officers report. He relied on the judgment of the Hon'ble High Court in WPNo. 27264/2008 -2009(4) ELA 756. He also mentioned that the NREGS work is not within the purview of Panchayat Raj Department and the sarpanch has dealt with this work outside and not official capacity as Sarpanch and that she did not have any role in the issue of job Cards to the labours of Self Help Group on the NREGS works. The MPDO and the DPO also appeared along with the Panchayat Secretaries who were worked during the said period. They have stated that door to door detailed enquiry was conducted and almost 400 people were conducted in this detailed investigation there is recorded evidence to show that the sarpanch signed herself stating that money was drawn from the bank amounts to be paid to the beneficiaries of the Self Help group. These statements are signed by Sarpanch with the official office seal along with President, secretary, Treasurer etc., of the SHG. Incidentally a criminal case was also booked and an appeal was filed before the Hon'ble High Court against the said proceedings and the Hon'ble High Court has issued interim directions to stay the case vide order WPNO.12050/2010, dt. 16.11.2010 of the Hon'ble High Court.

10. The Government after detailed examination of the case and material available in the records conclude that the Collector has not simply relied on the report of the subordinate officers and has also pursued the records. The proceedings of Collector have been issued with due application of mind. Further the contention that the Sarpanch has not acted in her official capacity is also not correct. As per Section 249(2) Sarpanch can be removed after due process if he/she has abused her position or the powers vested in him/her as the case may be after giving an opportunity for explanation. That the petitioner Sarpanch herein assumed a role not assigned to herself and drew the money from the bank along with the office bearers of the SHGs . She was not authorized to do so but she issued receipts using her official seal and hence she was abused her official position. Hence the Government hereby dismiss the Appeal Petition filed by Smt. Chelluboyina Nagamani Sarpanch (Removed), Tirupatipuram Gram Panchayat, Athili Mandal, West Godavari District duly vacating the stay granted vide Memo No. 11402/Pts.II/A1/2010-6, dt. 18.4.2011 and here by confirm the orders of the District Collector issued vide reference 1st read above.

11. The District Collector (PW), West Godavari District shall take necessary further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**Dr. RAJIV SHARMA
PRINCIPAL SECRETARY TO GOVERNMENT**

To

The District Collector (PW), West Godavari District.
The Commissioner, Panchayat Raj and Rural Employment, Hyderabad.
The District Panchayat Officer, West Godavari District.

Copy to:

Smt. Chelluboyina Nagamani Sarpanch (Removed), Tirupatipuram Gram Panchayat, Athili Mandal, West Godavari District,

The Government Pleader for (PR&RD), High Court of A.P. Hyderabad.

(with a request to appraise the position to the Hon'ble High Court , Hyderabad.)

Sri S.Siva Bhami Reddy , Advocate Flat No.107,Mythri vihar , Gupta Gardens , Ramanthapur , Hyderabad,500013.

P.S. to M(PR&RWS)

The P.S to Prl. Secy.

Sf/Sc.

//FORWARDED BY ORDER//

SECTION OFFICER